

DB WHITE PAPER – MEMBER BRIEFING

BACKGROUND

- ▶ In 2017, the Department for Work and Pensions (DWP) published a Green Paper on [Defined Benefit Schemes: Security and Sustainability](#). The paper examined the drivers of the lack of confidence in the pensions protection framework and proposed a wide range of potential remedies.
- ▶ The Green Paper echoed some of the analysis of the [DB Taskforce](#), which was set up by the PLSA to assess the challenges facing the sector and suggests ways in which these might be mitigated.
- ▶ DWP has now published the follow-up [White Paper document](#) Protecting Defined Benefit Pension Schemes, which sets out the Government’s proposals for the future of the DB framework.

WHITE PAPER: KEY POINTS

The Paper is divided into the following sections:

- ▶ Chapter 1 - Protecting private pensions – a stronger Pensions Regulator
- ▶ Chapter 2 - Improving the way the system works: scheme funding
- ▶ Chapter 3 - Improving the way the system works: consolidation
- ▶ Chapter 4 - British Steel Pension Scheme and other live areas
- ▶ Chapter 5 - Delivering the White Paper reforms

The emphasis throughout is on protection of members’ benefits. DWP’s stated focus for the future of DB is:

- ▶ For most schemes and businesses the rules are being clarified, with new options provided, but otherwise there are no fundamental changes to the existing system;
- ▶ For those employers unwilling to meet their obligations, there will be tougher and more proactive powers for TPR;
- ▶ For employers which are struggling to meet their pension scheme obligations, better support and a system for earlier intervention will be put in place.

There are some areas which were consulted on in the Green Paper, where DWP have chosen **not** to make any further changes. They include:

- ▶ No easements to permit an across-the-board RPI override. In ruling out a change DWP state that they “cannot accept any reduction in the value of member benefits”. DWP has, however, indicated it will continue to monitor developments in the wider use of CPI as an inflation index given concerns about its statistical robustness.
- ▶ No changes to the method used to calculate employer debt. The Paper notes that many respondents believed buy-out basis was a clear and fair way to assess an employer’s liability. It also highlights that legislative changes introducing a Deferred Debt Arrangement will come into force on 6 April 2018. On orphan liabilities, DWP

found insufficient evidence to support putting the calculation of such debts on a different statutory footing.

- ▶ No changes to the valuation reporting cycle: the Paper notes that there will be a revision of TPR's funding code and new guidance on scheme funding, so the current 15 month completion period will remain.



THE PENSION REGULATOR (TPR) POWERS

The Government's 2017 manifesto committed to prevent and punish those whose deliberate actions put pension schemes at risk. To do this, the White Paper seeks to strengthen the regulatory framework and TPR's powers. The proposals include:

- ▶ **New powers to introduce punitive fines** on Company Directors where reckless behaviour is proven to have been detrimental to the scheme; these would be over and above powers under the current Financial Support Directions (FSD) and Contribution Notice Regime (CNR).
- ▶ **Enhanced information-gathering powers**, including: requiring people to attend interview (with TPR); civil sanctions for non-compliance with a s72 notice without a reasonable excuse; a (widened) power to inspect records, documents and electronic devices for relevant purposes connected with TPR's functions. These changes replicate TPR's current powers with respect to auto-enrolment and master trust regulation.

IMPROVING THE WAY THE SYSTEM WORKS

The Paper acknowledges that some schemes are struggling with the challenge of underfunding. To address this, DWP propose the following:

- ▶ **Increased regulatory oversight** for the most financially vulnerable schemes where TPR can focus its efforts. This would be triggered at the triennial valuation, where the scheme hits key metrics (to be decided) on areas such as the scheme deficit and recovery plan.
- ▶ **Extension of the Regulated Apportionment Arrangements (RAA) Process** by widening the gateway for access to the process to a slightly larger group of employers who are not likely to be able to support their DB scheme.

SCHEME FUNDING AND GOVERNANCE

The Paper outlines concerns about trustee decision-making focus, lack of accountability and risk management, which can have implications for scheme funding. DWP proposes:

- ▶ **Clearer funding standards** in TPR's **DB Funding Code of Practice** and guidance, with a focus on taking a long-term view when setting the Scheme Funding Objective (SFO);

- ▶ **TPR** will carry out a programme of consultation with the industry to develop the revised DB Funding Code during 2018/2019.
- ▶ Requiring all schemes to have a Chair, and to produce a **DB Chair's Statement**, with their triennial valuation, to drive improved accountability. This requirement would bring DB schemes more closely in line with governance requirements on DC pension schemes.
- ▶ DWP have committed to giving further consideration and working with the Regulator to understand what more could be done to improve **greater transparency of costs and charges**.

CONSOLIDATION

The Paper states that consolidation could improve the security of members' benefits and acknowledges there are already a range of options currently available to schemes. To remove any structural barriers for schemes that may choose to consolidate, the following changes are proposed:

- ▶ **A broader authorisation regime** to apply to all forms of consolidation vehicles including DB master trusts as well as possible commercial consolidators, which sets out minimum standards of governance, accreditation and other requirements;
- ▶ **A legislative framework which enables consolidation** where an employer no longer sponsors a scheme (this could include specific consolidator vehicles such as a 'Superfund' but other vehicles as well);
- ▶ **Possible amendment to GMP conversion legislation** to help simplify the process for schemes looking to amend complex benefit structures.

NEXT STEPS

The Paper sets out a number of measures to improve the DB system, forming a programme of work which "will take a number of years to implement and which will require a phased approach to delivery".

- ▶ Areas for **rapid improvement** i.e. which do not require primary legislation or are already underway, include:
 - ▶ TPR's work outlined in their TPR Future report to set clear expectations and use a broader range of approaches;
 - ▶ TPR and the Insolvency Service's work to review existing director disqualification procedures will take place in Spring/Summer 2018.

FURTHER CONSULTATIONS

- ▶ To bring many of the proposed changes into force legislation or further consultation will be required. The following have been proposed:
- ▶ TPR consultations on **funding standards** will take place later this year.

- ▶ Consultations on **Increased Regulatory Oversight** and the **RAA process** will also be carried out.
- ▶ “Towards the end of 2018” DWP will consult to **finalise the design of a legislative framework that will apply to all forms of consolidation vehicles.**
- ▶ Legislation to enhance **TPR’s powers on scheme funding.**
- ▶ Changes that require primary legislation are unlikely to take place until 2019/2020, due to the Parliamentary timetable.

HOW TO GET INVOLVED

We will actively seek your views over the coming months to inform our response to the White Paper and forthcoming consultations. You can contribute in a variety of ways: by e-mailing joe.dabrowski@plsa.co.uk, openplsa@plsa.co.uk or through the member events that we will be hosting during 2018:

[Local Authority Conference: 21-23 May 2018](#)

[Annual Conference and Exhibition: 17-19 October 2018](#)

For any more information please visit our full website www.plsa.co.uk

Or feel free to email us at enquiries@plsa.co.uk